# DELIBERATIVE AGENDA

# SPECIAL CITY COUNCIL WORKSESSION MONDAY, NOVEMBER 7, 2011 CONFERENCE ROOM 12, CITY HALL 6:30 P.M.

PRESENT: Mayor Kiss, City Council President Keogh, Councilors Bushor, Blais, Brennan, Paul, Hartnett, Decelles, Berezniak, Shannon, Mulvaney-Stanak, Wright and Kranichfeld

ALSO PRESENT: Interim CAO Schrader; ACAO Goodwin; City Attorney Ken Schatz; Assistant City Attorneys Eugene Bergman, Gregg Meyer, and Richard Haesler; Larry Kupferman, Kirsten Merriman-Shapiro, CEDO; Joe Reinert, Mayor's Office; David G. White, White & Burke

ABSENT: Councilors Adrian and Dober

#### 1. AGENDA

On a motion by Councilors Bushor and Brennan the agenda was adopted as is.

2. COMMUNICATION: Larry Kupferman, CEDO Director & David G. White, Consultant, re:
On-going Negotiations with the Ice Factor and the Sailing Center; update
on several recent developments with financing (oral)

David G. White, White & Burke, stated that three groups were interested in the project but it depended on funding sources. He and Kirsten Merriman-Shapiro, CEDO, attended a national conference to pitch Moran and it was received very well. The process would be to work with the group further. It would also be important to line up investors who would purchase rights to the tax credits. U.S. Bank was the largest purchaser of tax credits, although there were two others who were also interested. There were other projects they could invest in, so it would be important to be prepared to move forward when the time came, probably around February or March, and close the deal in June or July.

Councilor Decelles inquired if having a third tenant was a need or a desire. Mr. White stated it was a desire and not necessary financially.

On a motion by Councilors Wright and Bushor, the Special City Council Work Session voted unanimously to go into executive session at 6:45 p.m., premature disclosure would place the City at a substantial disadvantage. Present were: see above

# \* \* \* \* EXPECTED EXECUTIVE SESSION \* \* \* \*

On a motion by Councilors Wright and Bushor, the Special City Council Work Session went out of executive session at 7:15 p.m.

#### 3. ADJOURNMENT

On a motion by Councilors Wright and Bushor the Special City Council Work Session voted unanimously to adjourn at 7:15 p.m.

Attest:

Lori Olberg, Licensing, Voting and Records Coordinator and Amy Bovee, Executive Secretary

# LOCAL CONTROL COMMISSION MONDAY, NOVEMBER 7, 2011 CONTOIS AUDITORIUM, CITY HALL 7:24 P.M.

PRESENT: Mayor Kiss, City Council President Keogh, Commissioners Bushor, Blais, Brennan, Paul, Hartnett, Decelles, Berezniak, Shannon, Mulvaney-Stanak, Wright, Adrian and Kranichfeld

**ABSENT: Commissioner Dober** 

CITY ATTORNEY'S OFFICE: Ken Schatz

CLERK/TREASURER'S OFFICE: Scott Schrader, Rich Goodwin and Lori Olberg

# CITY COUNCIL PRESIDENT KEOGH PRESIDING:

#### 1. AGENDA

On a motion by Commissioners Berezniak and Blais, the Local Control Commission Agenda was adopted as is.

## 2. CONSENT AGENDA

On a motion by Commissioners Berezniak and Blais the consent agenda was adopted thus taking the following actions as indicated:

2.01. COMMUNICATION: Amy Bovee, Executive Secretary and Lori Olberg, Licensing, Voting and Records Coordinator, re: Local Control Sub-committee/City Council License Committee Minutes for August 2, 2011

\*waive the reading, accept the communication and place it on file

2.02. COMMUNICATION: Amy Bovee, Executive Secretary and Lori Olberg, Licensing, Voting and Records Coordinator, re: Local Control Sub-committee/City Council License Committee Minutes for August 30, 2011

- 2.03. FIRST CLASS CABARET LIQUOR LICENSE RENEWAL (2011-2012): Lift \*waive the reading, accept the communication, place it on file and approve the 2011-2012 First Class Cabaret Liquor License Renewal for Lift
- 3. FIRST CLASS RESTAURANT LIQUOR LICENSE APPLICATION (2011-2012):

RIS LLC, d/b/a Pistou Restaurant (formerly Via Loma), 61 Main Street

<sup>\*</sup>waive the reading, accept the communication and place it on file

Commissioners Berezniak and Blais made a motion to approve the First Class Restaurant Liquor License Application for Pistou Restaurant. The motion passed unanimously.

### 4. ADJOURNMENT

On a motion by Commissioners Berezniak and Blais, the Local Control Commission voted unanimously to adjourn at 7:25 p.m.

Attest:

Lori Olberg, Licensing, Voting and Records Coordinator and Amy Bovee, Executive Secretary

# REGULAR MEETING, CITY COUNCIL MONDAY, NOVEMBER 7, 2011 7:25 P.M.

PRESENT: see above

#### 1. AGENDA

On a motion by Councilor Shannon, the agenda was unanimously adopted, as amended, as follows: amend the action for consent agenda item 3.12. COMMUNICATION: Austin Sumner, M.D., MPH, State Epidemiologist-Environmental Health, Vermont Department of Health, re: Deputy Town Health Officers with the consent action to "waive the reading, accept the communication, place it on file and reappoint both Tim Ahonen and Sybil Thomas as Deputy Town Health Officers to serve for the next three years with the Clerk/Treasurer's Office submitting the re-appointment forms to the Vermont Department of Health;" note the proposed amendment for agenda item 5. RESOLUTION: Supplemental Budget Resolution #2012-01 Approving FY 2012 Information Technology Improvement Plan and Amending the FY 2012 Budget in Relation Thereto (Board of Finance) and note the proposed amendment for agenda item 6. RESOLUTION: Exemption from Personal Property Tax for Businesses with Appraised Values Under \$25,000 (Councilors Paul, Decelles and Dober) with "lines 122 and 130 be amended to read \$45,000."

Councilors Brennan and Adrian made a motion to hear all people who signed up for Public Forum.

Councilor Decelles spoke in favor of allowing all speakers to participate in Public Forum.

The motion passed unanimously.

# 2. PUBLIC FORUM

City Council President Keogh opened the public forum at 7:28 p.m.

NameWard/AffiliationSubjectErin BlaisdellWard 6 ResidentPro-SkateparkZach HibbsWard 5 ResidentPro-SkateparkBarbara ZuckerWard 7 Resident/<br/>Coalition of Concerned NeighborsFor Skatepark,<br/>Against Location

Jose Agorrea	Ward 3 Resident	Pro-Skatepark
Jesse Curran	Ward 2 Resident	Pro-Skatepark
Curt Gurry	Ward 3 Resident	Pro-Skatepark
Chris White	Ward 3 Resident	Pro-Skatepark
Jake Steth	Ward 2 Resident	Pro-Skatepark
Tim Jarvis	Ward 4 Resident Anti-	-Skatepark/reexamine Pennies for Parks
Elliot Roberts	Ward 7 Resident	Pro-Skatepark
Austin Pine	Ward 3 Resident	Pro-Skatepark
Linda Tierney	Ward 7 Resident Coalition of Concerned Neighbors	Anti-Skatepark
Jonathan Hart	Ward 3 Resident Coalition of Concerned Neighbors	Anti-Skatepark
Ron Ruloff	Ward 3 Resident	Food Shelf Issues
John Van Hazinga	Owner of Ridin' High Skate Shop	Pro-Skatepark
Joanne & Eamonn Bott	tger Burlington Residents	Pro-Skatepark
Christine & Cameron N	McConnell Ward 5 Residents	Pro-Skatepark
Emily Kalen	UVM Student	Pro-Skatepark
Nicole Driscoll	Ward 3 Resident	Pro-Skatepark
Devin Connor	Ward 2 Resident Burlington Skatepark Coalition	Pro-Skatepark
Keegan Reed	Ward 3 Resident	Pro-Skatepark
Bryan Parmelee	Ward 2 Resident	Pro-Skatepark
Brian Cina	Ward 2 Resident City Hall Park Occupier	Pro Occupation of City Hall Park
Will Hurd	City Hall Park Occupier	Social Services in City Hall Park
Andrew Elvin	Ward 3 Resident City Hall Park Occupier	Social Services in City Hall Park
Barry Kade	City Hall Park Occupier	Pro Occupation of City Hall Park

Jenna	Ward 3 Resident City Hall Park Occupier	Pro Occupation of City Hall Park
Chuck Adams		Pro-Skatepark
Will	City Hall Park Occupier	Pro Occupation of City Hall Park
Israel Moreno Jr.	Vermont Resident	Pro-Skatepark
Doug Clark	Burlington Resident	Pro-Skatepark
Billy Allen	Vermont Resident	Pro-Skatepark
Mark Heitzinger	Vermont Resident	Pro-Skatepark
Rikki Lee Thiel	Ward 6 Resident	Pro-Skatepark
Jamie Grey	Ward 5 Resident	Pro-Skatepark
Barry Dugan	Vermont Resident	Pro-Skatepark
Rory Waterman	Ward 3 Resident Commodore Point Condominiums	Anti-Skatepark/Moran Development
Nate Dugan	Burlington Resident	Pro-Skatepark
Lee Bryan	Vermont Resident	Pro-Skatepark
David Wood	Vermont Resident	Pro-Skatepark
Joseph Handy	Vermont Resident	Pro-Skatepark
James Marc Leas	Vermont Resident	Pro Occupation of City Hall Park
Jamie Beckett	UVM Student	Pro-Skatepark
Edan Winfield/Dakota Hamilton Vermont Residents		Pro-Skatepark
Trina Zide	Ward 3 Resident Local Business Owner	Pro-Skatepark
Brady Winslow	UVM Student	Pro-Skatepark
Josh Eichen	Ward 1 Resident	Pro-Skatepark
Adam Ploof	Ward 3 Resident	Pro-Skatepark
Graham Tiplady	Ward 3 Resident	Pro-Skatepark
Eli Lesser-Goldsmith	Ward 7 Resident	Pro-Skatepark

Richard Simpson Ward 2 Resident Pro-Skatepark

Brendan Foster Ward 3 Resident Pro-Skatepark

Ben Banks Ward 3 Resident Pro-Skatepark

There being no one further coming forward and no objection from the remaining Council, City Council President Keogh closed the public forum at 8:42 p.m.

\*\*\*3 Minute Recess\*\*\*

#### 3. CONSENT AGENDA

On a motion by Councilors Shannon and Bushor the consent agenda was adopted, as amended, thus taking the following actions as indicated:

3.01. COMMUNICATION: Lori Olberg, Licensing, Voting & Records Coordinator, re:

Accountability List

\*waive the reading, accept the communication and place it on file

3.02. RESOLUTION: Re-organization – Burlington Telecom Elimination of Regular Full Time

Help Desk Technician and Creation of Regular Full Time Outside Plant

Technician (Board of Finance)

\*waive the reading and adopt the resolution

3.03. RESOLUTION: Authorization for Land Purchases and Relocation Services in

Anticipation of AIP Grant Funds for Burlington International Airport

(Board of Finance)

\*waive the reading and adopt the resolution

3.04. RESOLUTION: Approval of Amendments to Burlington Electric Department's

Operating Guidelines (Board of Finance)

\*waive the reading and adopt the resolution

3.05. RESOLUTION: Authorization to Enter into License Agreement to Maintain A Bike

Rack on a Portion of the City's Right-of-way with Courtyard Burlington Harbor Hotel (Councilors Dober, Blais, Berezniak:

License Committee)

3.06. COMMUNICATION: Mari Steinbach, Director, Department of Parks and Recreation, re:

Penny for Parks

3.07. INDOOR ENTERTAINMENT PERMIT RENEWAL (2011-2012): Lift, 165 Church Street \*waive the reading, accept the communication, place it on file and approve the 2011-2012 Indoor Entertainment Permit Renewal for Lift

<sup>\*</sup>waive the reading and adopt the resolution

<sup>\*</sup>waive the reading, accept the communication and place it on file

3.08. COMMUNICATION: Amy Bovee, Executive Secretary, re: Board of Finance October 5, 2011 Minutes

3.09. COMMUNICATION: Gregg Meyer, Esq., Assistant City Attorney, re: Opinion on Waterfront Park Act 250 Permit

- 3.10. COMMUNICATION: Ellie Blais, Member, Police Commission, re: Resignation \*waive the reading, accept the communication, place it on file, advertise the vacancy and send a letter of appreciation to Ellie Blais thanking her for her time served on the Police Commission
- 3.11. COMMUNICATION: Richard H. Cate, Vice President for Finance and Administration and University Treasurer, The University of Vermont, re: City of Burlington and University of Vermont Memorandum of Agreement Re: 2009 Zoning Amendments

\*waive the reading, accept the communication and place it on file

3.12. COMMUNICATION: Austin Sumner, M.D., MPH, State Epidemiologist-Environmental Health, Vermont Department of Health, re: Deputy Town Health Officers

\*waive the reading, accept the communication, place it on file and re-appoint both Tim Ahonen and Sybil Thomas as Deputy Town Health Officers to serve for the next three years with the Clerk/Treasurer's Office submitting the re-appointment forms to the Vermont Department of Health

- 3.13. COMMUNICATION: Amy Bovee, Executive Secretary and Lori Olberg, Licensing, Voting & Records Coordinator, re: Draft Minutes, City Council, August 8, 2011 \*waive the reading, accept the communication, place it on file and adopt the minutes at the November 14, 2011 City Council Meeting
- 3.14. COMMUNICATION: Amy Bovee, Executive Secretary and Lori Olberg, Licensing, Voting & Records Coordinator, re: Draft Minutes, City Council, September 12, 2011

\*waive the reading, accept the communication, place it on file and adopt the minutes at the November 14, 2011 City Council Meeting

4. RESOLUTION: Proposed Amendments to Appendix B, Rules and Regulations of the City Council (Councilors Keogh, Wright, Bushor: Rules Committee)

Councilors Bushor and Decelles made a motion to waive the reading and adopt the resolution.

Councilor Bushor stated this would approve the proposed amendments to the City Council rules and regulations. The first communication was from City Attorney Schatz and outlined changes to the original draft as a result of feedback Councilors gave. The second communication was from Councilor Adrian with his original requests. Councilor Mulvaney-Stanak had also made requests. The request from Councilor Adrian was in regards to cell phone usage. This was broadened because there was a lot of input regarding why one type of electronic should be targeted versus another. To respect the public, people should not focus on anything other than the speaker and should not use electronics during public forum. The intent was not to eliminate the use of electronics. The other issue he addressed was who staffed the Council and the committee decided it should be up to the CAO to make those determinations. As a result of discussions, the Committee determined that it was too difficult to define what a significant assignment

<sup>\*</sup>waive the reading, accept the communication and place it on file

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was. Councilors would be informed if something was significant. This looked at how resources were being spent and allowed the Council to decide. Councilors should stay in their seats during public forum was left in. There was a change in the way removing items from the consent agenda to the deliberative agenda was handled. Councilors with questions on agenda items were encouraged to request information from staff before making a change. Councilor Adrian had concerns that this limited transparency.

Councilor Berezniak stated he was in favor of an amendment to the electronic devices section, stating that it was no different than using a pen and paper to take notes. It was not disrespectful and we should have access to modern technology.

Councilors Adrian and Shannon proposed an amendment to line 75 to allow City Council to determine which office would provide staffing rather than cede this power to the Administration.

Councilor Decelles inquired if the CAO were to designate a staff person, and the Council preferred a different person, would they have the ability to make that change if necessary. City Attorney Schatz stated the Council could suspend the rules with a 2/3 majority and then take a different action. Councilor Decelles inquired if after the rules were suspended, would a simple majority be necessary to appoint the new staff person. City Attorney Schatz stated that was correct.

Councilor Wright inquired how this was currently handled. City Attorney Schatz stated there was precedence for a variety of different departments to staff the standing committees. With ad hoc committees, it was typically a matter of coordination after a conversation about what department was the most appropriate. Councilor Wright stated having the CAO do this made sense. If there was an extraordinary circumstance the Council could make changes.

Councilor Bushor agreed with Councilor Wright. The practice had always been for the Administration to make staff appointments. When an ad hoc committee was established, sometimes the language of the resolution stated who would staff it. The language reflected how business was currently done.

Mayor Kiss stated the relationship between Council and Administration should not be adversarial. The CAO should make recommendations for staffing.

Councilor Mulvaney-Stanak stated the City Council had never acted in this capacity and if staffing seemed mismatched there could be a conversation. This reflected current practice.

Councilor Shannon stated this allowed the CAO to make decisions on staffing and this did not allow the City Council to collaborate. However, there had not been issues. This only allowed the CAO to pick the department, not the staff person. She stated she was in favor of the amendment.

The amendment passed by a vote of 7-6.

Councilor Adrian inquired what would happen if a vote were to tie. City Attorney Schatz stated you would need the majority of the entire body. However, making a change within the rules did not require a majority of the body. The whole resolution would require 8 votes.

Councilor Kranichfeld inquired if the amendments should be approved one by one. City Council President Keogh stated the only issue being discussed was Councilor Adrian's amendment. City Attorney Schatz stated nothing had been amended yet but the resolution. The actual rules had not been amended. Councilor Decelles stated this resolution would require 8 votes and if there were not 8 votes it would revert back to the original rules.

Councilors Adrian and Shannon proposed an amendment to line 82 to define significant assignment as 'any assignment in the case of a committee that shall take more than 8 hours in staff time or shall cost more than \$500 in professional services, or in the case of an individual Councilor more than 1 hour of staff time or more than \$100 in professional services.' Councilor Adrian stated that not defining this would lead to unfair treatment of individual Councilors. He stated this would provide a clear guideline. It would be possible to go beyond that if the entire Council approved it.

Councilor Shannon spoke in favor of the amendment stating there had been times when Councilors had requested a large amount of work from staff and other times Councilors had been told work would require a Council vote. This provided a more clear definition.

Councilor Berezniak spoke in favor of the amendment because it defined what assignments require of City staff. This would give a number at the end of the year and allow the Council to know how much staff to fund through their budget.

Councilor Bushor stated she understood the desire to better define this, but felt this would box the Council in. Some requests took time and it would be counterproductive to require the Council to determine what an hour's worth of work was. A department head could alert the Council if too much work was being asked for. The limits for individuals were too low and the limit for committees was too high.

Councilor Mulvaney-Stanak stated any of the rules could be suspended with a 2/3 vote of the Council. It was important to be careful with City resources. She inquired if there was discussion about placing this judgment in the hands of an individual, such as the City Council President. City Council President Keogh stated there was not. City Attorney Schatz stated it was important to balance flexibility and responsiveness. If the City Council President needed to weigh in each time a Councilor made a request of a staff person, it would take longer for staff to be responsive. Staff desired to be responsive to requests as best as they could while continuing to do other work. The current language seemed to work relatively well.

Councilor Brennan inquired how the totality of the amount of requests would be tracked through this, and if there was a system in place to keep track of the hours. City Council President Keogh stated he did not think there was currently. Councilor Bushor stated the discussion had more to do with the time commitment than the dollar amount. Boxing ourselves in could be problematic.

Councilor Wright stated it was important not to set an arbitrary number. It would create confusion and there had almost never been an issue. A lot of work was put into these rules and he would like to reject this amendment.

Councilor Decelles stated it was more important to consider whether a request was relevant rather than the time it took to fulfill it.

Councilor Adrian stated this had been a long standing issue. There was one request regarding City Arts recently that brought up the issue, but many times Councilors had asked for information and have been told there is not time. This empowered the Council by showing the criteria under which their request was fulfilled or rejected. It balanced the power between the Council and the Administration.

Councilor Shannon stated this rule had not been applied evenly to all City Councilors on all requests in the past. Some had been deemed as more worthy requests than others and cooperation had been better when it was deemed worthy. The parameters were rough and the Council should define significant. Otherwise, there should be a person designated to make that judgment, possibly department heads.

Mayor Kiss stated that the Administration had been reasonable with their responses to requests. Most know unreasonable when it was seen and if it would take too long. A policy based on reasonableness made sense and debating it when issues came up made more sense. The City Arts request was unreasonable and discussion was based around this. Setting time limits did not make sense.

The amendment failed by a vote of 5-8.

Councilors Adrian and Shannon proposed an amendment to strike line 63. Councilor Adrian stated this legislated behavior.

Councilor Wright stated the key word was "encouraged" and it did not legislate anything. People should stay in their seats to listen to the public.

Councilor Berezniak stated if it was not a firm rule it should not be included.

Councilor Kranichfeld stated this and the cell phone amendment were both issues that should be between a Councilor and their constituents. If constituents had a problem with it and felt the Councilor was not doing their job that would come back in a reelection.

Councilor Paul inquired why a rule was being included if it was not a real rule. Councilor Wright stated there were other places in the rules where 'encourage' was used. It was important to show the public the Council was sitting and listening to them. Councilor Paul inquired if the other members of the Rules Committee had comments. Councilor Bushor stated the intent was to have people focus on the public and show them respect. However, everyone here was an adult and could regulate their own behavior.

Councilor Mulvaney-Stanak stated this documented how the Council wanted to operate its decorum as a legislative body of the City. Public Forum was one of the most truly democratic parts of the meeting. It was not a steadfast rule but sent a respectful statement from the Council about the value of Democracy.

The amendment failed by a vote of 5-8.

Councilors Adrian and Shannon proposed an amendment to strike lines 310-317. Councilor Adrian stated this was not advisory and stated that it was not appropriate to move a consent agenda item to deliberative agenda. This was not transparent and limited information for the public.

Councilor Bushor stated she understood the request but did not feel that lines 310-11 were controversial. She stated she would like to rework the consent agenda. Councilor Adrian stated the deliberative agenda was for whatever the Council thought it should be. Councilor Bushor stated the deliberative agenda was for everything at one point, but had been better defined to be those items that required more in depth conversation. Consent agenda was for items that were not as controversial. City Council President Keogh stated deliberative agenda was defined in Robert's Rules of Order.

Councilor Wright stated this did not limit people from talking about things and Council Comments could be used in this way. Taking items off of the Consent agenda for general information made the deliberative agenda difficult when Council Comments could be used in this way.

Councilors Bushor and Wright proposed an amendment to the amendment to divide the question into two because lines 310-315 and lines 315-317 address different issues.

The amendment to strike lines 310-315 failed by a vote of 6-7.

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The amendment to strike lines 315-317 passed by a vote of 7-6.

Councilors Adrian and Shannon proposed an amendment to strike lines 387-388. Councilor Adrian stated that about half the Council used electronics during the last public forum. Legislating communication or electronic devices was a slippery slope to regulating speech and how people interact with each other.

Councilor Decelles inquired if judges allowed attorneys to use blackberries in the courtroom. Councilor Blais stated they did not. Councilor Decelles stated the judicial system did not allow this. Many people were uncomfortable talking to the Council and it was obvious Councilors were paying attention when they were not using electronics.

Councilor Wright stated before he was on City Council he came and spoke at Public Forum many times. It was not good for the public to see Councilors doing different things. During that short time of Public Forum, Councilors should be able to put away electronic devices.

Councilor Shannon stated maybe the Council should not be allowed to use pencils and paper because it was disrespectful to the public. Just because it was pen and paper versus an electronic device did not mean it was being used inappropriately.

Councilor Kranichfeld stated there were rules of etiquette and Councilors should be able to exercise their judgment and do right by constituents. This was micromanagement.

Councilor Wright stated that the same thing had been said about texting while driving and if you regulate that you would have to regulate all other things people do while driving. However, the legislature decided it was an epidemic and a safety issue so they would regulate that one activity. This was the same idea, in that this had become a big issue and it was done too much.

Councilor Berezniak stated this question did not warrant this level of discussion. It was the same as using a pencil and paper. It could give the public access to the process during the Council meeting.

Councilor Mulvaney-Stanak stated Public Forum was the most truly democratic portion of the meeting and it should not be replaced with social media. Tweeting during Public Forum did not have to be done at that second, and it was more important to pay respect to constituents.

Councilor Brennan stated he paid attention to what was being said at Public Forum and there were times where more information would be helpful. Having a device that allowed access to that information could help understand what was being said at Public Forum. It was up to the voters to decide if that was ok or not.

Councilor Shannon stated this did not say you could not tweet, it said you could not take notes on a laptop. Taking notes helped Councilors pay attention to what was being said. The medium of note taking was not the Council's concern.

City Council President Keogh requested a roll call.

The motion passed by a vote of 7-6.

AYES: Councilors Adrian, Berezniak, Blais, Brennan, Kranichfeld, Paul and Shannon

NAYS: City Council President Keogh, Councilors Bushor, Decelles, Hartnett, Mulvaney-Stanak and Wright

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ABSENT: Councilor Dober

City Council President Keogh requested a roll call.

The rules were adopted as amended by a vote of 11-2.

AYES: City Council President Keogh, Councilors Adrian, Berezniak, Blais, Brennan, Bushor, Kranichfeld, Mulvaney-Stanak, Paul, Shannon and Wright

NAYS: Councilors Decelles and Hartnett

ABSENT: Councilor Dober

4.01. COMMUNICATION: Kenneth A. Schatz, Esq., City Attorney, re: Proposed Amendments to Council Rules

Councilors Bushor and Decelles made a motion to waive the reading, accept the communication and place it on file. The motion passed unanimously.

4.02. COMMUNICATION: Councilor Ed Adrian, Ward One, re: Proposed Changes to Proposed Amendments to City Council Rules

Councilors Bushor and Decelles made a motion to waive the reading, accept the communication and place it on file. The motion passed unanimously.

5. RESOLUTION: Supplemental Budget Resolution #2012-01 Approving FY 2012

Information Technology Improvement Plan and Amending the FY

2012 Budget in Relation Thereto (Board of Finance)

Councilors Wright and Paul made a motion to waive the reading and adopt the resolution.

Interim CAO Schrader stated since the last meeting a copy of the proposed plan and a descriptor for each program had been provided. There was \$155,500 that had been unspent in the last two fiscal years for central computer. Pursuant to the budget adopted in June this year, this requested these funds be rolled over and used for the projects outlined in this plan.

Councilor Bushor stated she would like more detail regarding the financial and human resources management system. This gave a good description of each project and what it would accomplish.

Councilors Shannon and Berezniak made a motion to amendment the resolution as described in the document distributed to Councilors before the meeting.

Councilor Bushor inquired if this was additional language or if it was inserted somewhere. Councilor Shannon stated the 'whereas' clauses go after line 30 and the 'be it resolved' clauses would go at the end.

Councilor Shannon stated there had been an ongoing IT issue that was not addressed in this plan. This would result in changes to how the Code was managed. Municode was the current system and it was difficult to navigate. While doing research, she discovered a company that had a better system and was also cheaper than Municode. They would charge nothing for set up and the charge per page was less than the current price. This resolution requested that the Clerk/Treasurer's Office compare the two systems and if it was a better price and system, convert to the other system. Additionally, resolutions were not indexed

or available to the public. Agendas were online and some changes that were made on the floor were not available. This company offered to index resolutions for a cost of \$2.95 per resolution. If we wanted to archive resolutions the cost would be \$4.95 per resolution. The only requirement of City staff was that when resolutions were amended on the floor there needed to be a document sent to the company. This would save staff time when Councilors were looking for a resolution and would allow the public to have access to it. It was time to move forward on this and it was inexpensive. Furthermore, resolutions would be indexed and available online from January 1 onward.

City Council President Keogh inquired how solid the November 14 deadline was. Councilor Shannon stated the request was simple; it involved getting a copy of a contract and presenting it.

Councilor Bushor inquired if there was a discussion with Interim CAO Schrader about this. Councilor Shannon stated she started discussing this with him, City Attorney Schatz and Senior Assistant City Attorney Bergman and the IT Director in June where it was described and demonstrated. This specific proposal was sent to Interim CAO Schrader last night. Councilor Bushor inquired if this was supposed to be in place as of January 1, as one piece was a request to explore and the second piece was to actually implement the system. She also inquired if this fit in with the rest of the IT plan. Interim CAO Schrader stated he supported the program. Researching past actions of City Council was very difficult with the current system. The reservations were more about the timing, rather than the project. There were internal processes that would need to be changed to accomplish this. There had been meetings regarding this and it was on the way, but January 1 might not be adequate. It lent itself to further changes that were being contemplated with electronic agendas and more precise ways of detailing what went on at City Council Meetings. It would allow people to see the resolution as presented and adopted, but also the corresponding minutes. There was little difference between the two code companies and the resulting changes would be in house. It might be possible to do this without utilizing a code company. Councilor Bushor inquired if the dates in the amendment needed to be modified, as the goal was to move forward and timelines should be met. Interim CAO Schrader stated he would prefer the December meeting as far as getting the information in order. Councilor Bushor inquired about a February 1 was a better deadline. Interim CAO Schrader stated he would try to meet any deadline.

Councilor Bushor made a motion to amend the amendment to change the dates to the first meeting in December and change the deadline to January 31, 2012. Councilor Shannon stated she would prefer the deadline be January 8. Councilor Bushor accepted the suggestion and Councilor Shannon accepted the amendment as friendly. Councilor Shannon stated she would request a report if it was not ready by January 8. Councilors Wright and Paul accepted Councilor Shannon's amendments as friendly.

Councilor Brennan stated the school district had gone electronic with their documents and inquired if the Administration has looked at their system. City Council President Keogh stated he has had discussions about that issue.

The resolution was adopted unanimously, as amended.

5.01. COMMUNICATION: Scott Schrader, Interim Chief Admin. Officer, re: 2011-2012 Information Technology Improvement Plan

Councilors Wright and Paul made a motion to waive the reading, accept the communication and place it on file. The motion passed unanimously.

6. RESOLUTION: Exemption from Personal Property Tax for Businesses with Appraised Values Under \$25,000 (Councilors Paul, Decelles and Dober)

Councilors Wright and Paul made a motion to waive the reading and adopt the resolution.

Councilor Wright stated this was discussed at Board of Finance and decided to move the exemption from \$25,000 to \$45,000 to exempt more small businesses. It was approved unanimously by the Board of Finance.

Councilor Bushor inquired if the title was amended because of the change of the limit. City Council President Keogh stated it was changed. Councilor Bushor stated they were voting on the amended resolution.

Councilor Shannon inquired how the difference would be made up, as money would be lost in this exemption, even though it was not a huge amount. This would result in a loss of \$65,000. She inquired if this would free up resources to more closely review larger businesses. Kim Kellington, Deputy Assessor, stated ultimately the burden would be shifted to real estate taxes. It was about focusing efforts on auditing and inspecting businesses to bring up the level of equity for the remaining business accounts. The shortfall would be made up with real estate taxes. Councilor Shannon inquired how the budget gap would be filled. She stated she could not approve this until the difference was made up. The tax rate could not be increased and there were waivers on property taxes because of flooding. There was not \$30,000 for the library, so although this was a seemingly small loss of revenue it was important. Mayor Kiss stated the grand list would be growing more than usual this year and that would make up more than \$65,000. The point was that moving forward, the budget would continue to grow and this would put the Assessor's Office in a better position to do its work. Councilor Shannon stated they were told that this year's budget would be ok but next year would be problematic because expenses would not keep up with the grand list. She inquired if that was still true.

Councilors Wright and Berezniak made a motion to suspend the rules (at 10:30 p.m.) to complete the agenda. The motion passed unanimously.

Mayor Kiss stated the first quarter was good and gross receipts taxes were up. The Administration was efficient and running well. It was hard to know what would happen next year. The grand list was projected to grow by \$23 million but it should grow more than that. There would be more revenue than this year and other revenue sources would be considered as well. Councilor Shannon stated she did not like this type of tax but could not approve it without knowing where the difference would come from.

Councilor Paul stated that City Assessor Vickery had previously stated when the limit was at \$25,000 the loss would be \$33,000. One cut that would be made was a temporary employee who would be eliminated. That and other expenses cut would result in \$17,000 in savings. He also stated there were other projects, such as the hotel and office building on Battery Street where the amount would be made up quickly. Deputy Assessor Kellington stated the commercial sector would grow more than average. The money from the office building and the hotel would go to the TIF district, but the Redstone student housing project and the settlement with the lakeside property would be ending and result in increased revenue. Councilor Paul stated that was correct.

Councilor Blais stated he would be abstaining to avoid a conflict of interest.

Councilor Wright stated other communities had phased this out or were working on doing so. Though it could not be eliminated entirely at this time, it was a small measure that spoke to the concern on the matter and relieved small businesses.

The motion passed by a vote of 11-1 with Councilor Shannon being the one to vote against it.

6.01. COMMUNICATION: Board of Finance, re: Exemption from Personal Property Tax for Businesses

Councilors Wright and Paul made a motion to waive the reading, accept the communication and place it on file. The motion passed unanimously.

# 7. COMMITTEE REPORTS (5 mins.)

Councilor Shannon stated the Ordinance Committee had a presentation from the downtown smoking committee and had asked for a draft ordinance based on their recommendations. This would be taken up and sent to the Council. She stated she hoped the public would participate in this process.

8. COMMUNICATION: City Councilors, re: General City Affairs (oral)(10 mins.)

Councilor Wright stated the public forum was great tonight. There were a lot of young people who spoke in support of the Skate Park who conducted themselves very well. There was still a debate to be had about financing, but everyone agreed there needed to be a new skate park. He stated a former Councilor, Duane Bleau, passed away and requested a moment of silence which was honored.

Councilor Hartnett stated the Skate Park had become a big issue and he had reread the ballot initiative. The Skate Park was originally considered to be part of Moran. It was not supposed to affect property taxes. Since then, the Skate Park had become part of the North 40 project. It was confusing to the taxpayers. "Pennies for Parks" was meant to maintain parks and voters were told it was because the City could not keep up with maintenance. The taxpayers deserved an explanation of why this money was being used for a \$1 million Skate Park. Using park impact fees might be justified, but "Pennies for Parks" was not. He expressed disappointment with the Administration and CEDO in how it had been presented.

Councilor Bushor stated there would be a Ward 1 NPA meeting with neighborhood improvement and it would deal with downtown and waterfront improvements. She stated there had been some great NPAs focused on quality of life and noise issues. They had met at Schmanska Barn, which was great, except it was not well lit. She stated when the Skate Park was originally proposed, her daughter was in middle school and one of her classmates was very involved in bringing that forward. It was controversial, but it happened. It was a sport that included a group of people that often did not play team sports and were doing something that was seen as different at the time. The City should address noise concerns and bring people together. The Skate Park was antiquated and "Pennies for Parks" was appropriate because it was an existing park. This conversation needed to continue and the public needed to understand how they were involved in projects with Parks. She commented that the Public Forum was great and very engaging.

City Council President Keogh stated the group tonight was very respectful and cooperative.

Councilor Berezniak congratulated Jean O'Sullivan who was appointed to be the new State Representative for District 3-02.

Councilor Brennan stated the youth on Public Forum talked about issues that were near and dear to their hearts and it was nice to see people coming forward in a respectful manner. He stated he appreciated the Police and Mayor for using their discretion and working with those choosing to exercise civil disobedience in City Hall Park.

9. COMMUNICATION: Mayor Kiss, re: General City Affairs (oral)(5 mins.)

Mayor Kiss stated Forbes' Magazine highlighted Burlington as one of the best 10 downtowns in the U.S. and listed the others. Other cities used Burlington as models for how to do things.

The House Committee on Government Operations was considering reapportionment public hearings. The Burlington one would be in December. There would be an Ad Hoc Committee to deal with Burlington's reapportionment, and potentially City Wards, based on census data.

There had been recent issues regarding tax payments to South Burlington for the Airport. There was a proposal that was delayed because the FAA had become involved in the process. FAA involvement was likely to slow the process. City Attorney Schatz had consulted with another law firm to move forward on the process.

Occupy Wall Street Vermont had been focused on issues of economic and social justice and rights of freedom of speech and assembly. He stated the City had tried to respond with a balanced approach. Different City departments discussed the approach to take and how to respond. A wait and see attitude had been taken and they were looking at it day by day. So far this had been a positive statement and the City had been responsible in its response.

#### 10. ADJOURNMENT

Without objection, City Council President Keogh adjourned the Regular City Council Meeting at 10:51 p.m.

Attest:

Lori Olberg, Licensing, Voting and Records Coordinator and Amy Bovee, Executive Secretary